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In re Application of
MORITANI et al.
U.S. Application No. 10/573,572 : COMMUNICATION
PCT No.: PCT/JP03/15935 : REGARDING
Int. Filing Date: 12 December 2003 : SUBMISSION UNDER 37 CFR 1.42
Priority Date: None :
Attorney Docket No.: 2006_0147A :
For: TEST EQUIPMENT OF ENGINE
MOTORING :

This communication is issued in response to the declaration filed 27 March 2006, which is being treated as a Request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 12 December 2003, applicant filed international application PCT/JP03/15935. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 23 June 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 12 June 2006.

On 27 March 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee; a copy of the international application; a preliminary amendment; and an executed declaration.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration submitted on 27 March 2006 was executed by Kimino Kikukawa as "legal representative" of deceased inventor, Yoshio Kikukawa. The declaration submitted appears to have been executed by the proper party under 37 CFR 1.42, however, the

declaration does not satisfy the requirements under 37 CFR 1.497(b)(2).

37 CFR 1.497(b)(2) states the following:

(2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

37 CFR 1.497(b)(2) requires that citizenship, mailing address, and residence information be provided for **both** the deceased inventor and the legal representative. Here, the declaration filed 27 March 2006 does not comply with 37 CFR 1.497(b)(2), discussed above, in that it does not include the citizenship of the legal representative, Kimino Kikukawa.

Because the declaration submitted does not include all the information required by 37 CFR 1.497(b)(2), the declaration cannot be accepted under 37 CFR 1.497 and 1.42.

CONCLUSION

For the reasons discussed above, the request for status under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicants have **TWO (2) MONTHS** from the mailing date of this communication to submit a proper response under 37 CFR 1.42 and 37 CFR 1.497. Failure to provide a proper and timely response will result in abandonment. Extensions of time are available under 37 CFR 1.136(a). A proper response must include a new declaration in compliance with 37 CFR 1.497 executed by the legal representative and including all the required information discussed above.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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